

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Robert A. Heghmann

v.

Civil No. 06-cv-003-PB

Paul J. Maguire, et al.

REPORT AND RECOMMENDATION

Plaintiff seeks a temporary restraining order and preliminary injunction against Justice Gerald Taube and High Sheriff Wayne M. Estes. Document no. 11. The matter has been referred to me for a report and recommendation.

Jurisdiction is a prerequisite to issuance of injunctive relief. See Hitchman Coal & Coke Co. v. Mitchell, 245 U.S. 229, 234-235 (1917). "As a general matter, a court may not enjoin a non-party that has not appeared before it to have its rights legally adjudicated." See Chase Nat'l Bank v. City of Norwalk, 291 U.S. 431, 436-37, 54 S. Ct. 475, 78 L.Ed. 894 (1934). Additive Controls & Measurement Systems, Inc. v. Flowdata, Inc., 154 F.3d 1345, 1351 (Fed. Cir. 1998). Here plaintiff has not sought this temporary restraining order and preliminary injunction against the defendant but solely against two non-parties. Neither Taube nor Estes has been named as a party.

They have not been served with a summons and they have not appeared. The court does not have jurisdiction over them. I recommend that the "Application" for injunctive relief be denied.

Any objections to this report and recommendation must be filed within ten (10) days of receipt of this notice. Failure to file objections within the specified time waives the right to appeal the district court's order. See Unauthorized Practice of Law Committee v. Gordon, 979 F.2d 11, 13-14 (1st Cir. 1992); United States v. Valencia-Copete, 792 F.2d 4, 6 (1st Cir. 1986).


James R. Muirhead
United States Magistrate Judge

Date: July 26, 2006

cc: Robert A. Heghmann, *pro se*